

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>Melvin Miles,</b>	)	<b>CASE NO. 1:15 CV 1560</b>
	)	
<b>Plaintiff,</b>	)	<b>JUDGE PATRICIA A. GAUGHAN</b>
	)	
<b>Vs.</b>	)	
	)	
<b>Margaret Bradshaw,</b>	)	<b><u>Order</u></b>
	)	
<b>Defendant.</b>	)	

This matter is before the Court upon the Report and Recommendation of Magistrate Judge Kenneth McHargh (Doc. 8). No objections have been filed. For the following reasons, the recommendation is ACCEPTED and this matter is RE-REFERRED to Magistrate Judge McHargh.

The Magistrate Judge recommended that the respondent's motion to dismiss or, in the alternative, to transfer to the Sixth Circuit be denied given that the habeas petition is not a second or successive application under Section 2244. Rule 8(b) of the Rules Governing Section 2254 Cases in the United States District Courts provides, "The judge must determine *de novo* any proposed finding or recommendation to which objection is made. The judge may accept,

reject, or modify any proposed finding or recommendation.” When no objections have been filed this Court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See* Advisory Committee Notes 1983 Addition to Federal Rule of Civil Procedure 72. This Court has reviewed the Report and Recommendation and finds no clear error. Accordingly, the Court accepts the recommendation for the reasons stated therein. Thus, the motion to dismiss is denied. As noted by the Magistrate Judge, the merits of the habeas petition have not been addressed. Therefore, this matter is hereby re-referred to Magistrate Judge McHargh for consideration of the petition.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan  
PATRICIA A. GAUGHAN  
United States District Judge

Dated: 3/9/16